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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Andorra,* Argentina,* Austria,* Belgium, Bosnia and Herzegovina,* Canada,* Chile, Colombia,* Denmark,* Finland,* Gambia,* Germany, Ghana,* Honduras,* Iceland,* Ireland,* Liechtenstein,* Netherlands,* Niger,* Norway,* Paraguay,* Peru, Portugal,* Russian Federation,* Spain, Switzerland, Thailand,* the former Yugoslav Republic of Macedonia,* Tunisia, Turkey:* draft resolution

38/... Business and human rights: improving accountability and access to remedy

The Human Rights Council,

Reaffirming the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights,

Recalling relevant international human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and the Vienna Declaration and Programme of Action, and recalling also the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,

Recognizing the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy of the International Labour Organization, which provides direct guidance to enterprises on social policy and inclusive, responsible and sustainable workplace practices as a global instrument that was formulated and has been adopted by Governments, employers and workers around the world,

Recalling General Assembly resolution 72/247 of 24 December 2017 on the twentieth anniversary and promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,

Recalling also its resolutions 8/7 of 18 June 2008, 17/4 of 6 July 2011, 21/5 of 27 September 2012, 26/22 of 27 June 2014 and 32/10 of 30 June 2016, and Commission on Human Rights resolution 2005/69 of 20 April 2005, and noting Human Rights Council

* State not a member of the Human Rights Council.

resolution 26/9 of 14 July 2014, all on the issue of human rights and transnational corporations and other business enterprises,

Recalling the adoption by the General Assembly, in its resolution 70/1 of 25 September 2015, of the 2030 Agenda for Sustainable Development, and in this context, in particular paragraph 67 thereof,

Recalling in particular that the endorsement of the Guiding Principles on Business and Human Rights by the Human Rights Council in its resolution 17/4 established an authoritative framework to prevent and address adverse human rights impact from business activities, based on the three pillars of the United Nations "Protect, Respect and Remedy" Framework,

Stressing that the obligation and the primary responsibility to promote, protect and fulfil human rights and fundamental freedoms lie with the State,

Emphasizing that transnational corporations and other business enterprises have a responsibility to respect all human rights,

Recognizing the efforts made to implement the Guiding Principles on Business and Human Rights by various States, business enterprises, international organizations and members of civil society,

Recognizing also that the implementation of the Guiding Principles on Business and Human Rights includes implementation of the access to remedy pillar, and encouraging States to take appropriate steps to improve and encourage corporate accountability and access to remedy for victims of business-related human rights abuse,

Expressing concern at reports of intimidation against victims, witnesses and their legal representatives regarding cases of business-related human rights abuse, and emphasizing the need to ensure their safety,

Recognizing the valuable role played by civil society, including non-governmental organizations, in promoting the implementation of the Guiding Principles on Business and Human Rights and accountability for business-related human rights abuses and in raising awareness of the human rights impact and risks of business enterprises and activities,

Recognizing also that the operational principles of the access to remedy pillar include State-based judicial mechanisms, State-based non-judicial grievance mechanisms and non-State-based grievance mechanisms,

Reaffirming in particular that independent and effective judicial mechanisms are at the core of ensuring access to remedy, and encourage States to provide effective and appropriate judicial and non-judicial grievance mechanisms as part of access to remedy for business-related human rights abuses,

Reaffirming that States can play a helpful role in raising awareness of or facilitating access to non-State-based grievance mechanisms alongside the mechanisms provided by States themselves as part of comprehensive efforts to provide remedy for business-related human rights abuses,

Recognizing that national legal, policy or regulatory measures and national action plans on business and human rights can play an important role in implementing the Guiding Principles on Business and Human Rights, including in identifying and addressing issues on access to remedy for business-related human rights abuses,

Recognizing also the positive and valuable role played by civil society, including non-governmental organizations, business enterprises and trade unions, in the promotion and protection of human rights, including in the context of corporate activity and when seeking accountability and assisting victims in their access to effective remedies in cases of business-related human rights abuses,

Recognizing further the important role of national human rights institutions in supporting activities to improve accountability and access to remedy for victims of business-related human rights abuse, including through supporting the effective implementation of the Guiding Principles on Business and Human Rights,

Recognizing that an increasing number of business enterprises have taken steps to implement the Guiding Principles on Business and Human Rights,

Recognizing also that non-State-based grievance mechanisms administered by business enterprises, alone or with stakeholders, by industry associations or other multi-stakeholder initiatives may offer, in particular when aligned with the Guiding Principles on Business and Human Rights, such benefits as speed of access and remediation and reduced costs,

Recognizing further the shared interest of business, States and civil society in an environment that is pluralistic and non-discriminatory, upholding the rule of law and promoting transparency, and that responsible business enterprises benefit from and often depend upon legal certainty, transparency and predictability, and fair and effective domestic judicial mechanisms,

1. *Welcomes* the work of the United Nations High Commissioner for Human Rights on improving accountability and access to remedy for victims of business-related human rights abuse, and notes with appreciation his report on improving accountability and access to non-judicial remedy for business-related human rights abuses;[1]

2. *Also welcomes* the role of the Working Group on the issue of human rights and transnational corporations and other business enterprises in guiding and chairing the annual Forum on Business and Human Rights and in convening regional meetings to discuss challenges and lessons learned in a regional context;

3. *Further welcomes* the efforts of the Working Group to explore options for enhancing access to effective remedies, including in its latest report to the General Assembly[2] and in the sixth session of the Forum, which focused on realizing access to effective remedy;[3]

4. *Invites* States to consider using the reports of the High Commissioner, including the recommendations therein, when seeking to enhance the ability and effectiveness of state-based judicial and non-judicial mechanisms;

5. *Also invites* States to work through relevant intergovernmental processes to enhance accountability and access to remedy for victims in cases of business involvement in human rights abuses;

6. *Encourages* all business enterprises to meet their responsibility to respect all human rights as stated in the Guiding Principles on Business and Human Rights and in other applicable standards, including for example by actively contributing to initiatives aimed at fostering a culture of respect for the rule of law, for the protection of human rights, participating in good faith in national judicial and non-judicial processes, and by establishing effective operational-level mechanisms to enable the early resolution of grievances;

7. *Encourages* business enterprises to share publicly and disseminate broadly information regarding their human rights policies and procedures to enhance engagement with stakeholders, including affected communities, with respect to business operations and the preventative measures that businesses can take;

8. *Requests* the Working Group, mindful of the guidance provided by the Accountability and Remedy Project of the Office of the High Commissioner, to analyse further the role of national human rights institutions in facilitating access to remedy for business-related human rights abuses, and to convene a two-day global consultation on these issues, open to all stakeholders, and to inform the Council by its forty-fourth session as appropriate;

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[1] A/HRC/38/20 and Adds.1-2.

[2] A/72/162.

[3] See A/HRC/38/49.

9. *Requests* the High Commissioner to continue his work in this area, including the dissemination of parts I and II of the Accountability and Remedy Project,[4] and to identify and analyse challenges, opportunities, best practices and lessons learned with regard to non-State-based grievance mechanisms that are relevant to the respect by business enterprises for human rights, to convene two consultations, involving representatives of States and other stakeholders to discuss such issues, and to submit a report thereon to the Human Rights Council for consideration at its forty-fourth session;

10. *Encourages* all relevant United Nations programmes and agencies to assist States upon their requests, including through technical cooperation and capacity-building activities, and to improve accountability and access to remedy for victims of business-related human rights abuse by taking into consideration the reports of the High Commissioner on the Accountability and Remedy Project and the recommendations contained therein;

11. *Also encourages* national human rights institutions and civil society, including non-governmental organizations, to take into consideration the reports of the High Commissioner on the Accountability and Remedy Project in their activities aimed at supporting States' efforts to improve accountability and access to judicial and non-judicial remedy for victims of business-related human rights abuse;

12. *Emphasizes* the importance of stakeholder dialogue and analysis to maintain and build on the results achieved to date to prevent and address business-related human rights abuses, and to inform further deliberations of the Human Rights Council on business and human rights;

13. *Decides* to continue its consideration of this question in conformity with its annual programme of work.

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[4] See A/HRC/32/19 and Corr.1 and Add.1, and A/HRC/38/20 and Add.1.